

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**RICKY WILLIAMS, JR.,**

Petitioner,

v.

**WILLIAMS STEPHENS, Director  
Texas Department of Criminal Justice,  
Correctional Institution Division,**

Respondent.

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Civil Action No. **3:15-CV-3105-L**

**ORDER**

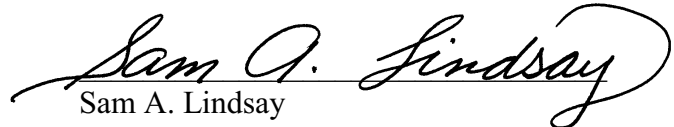
On September 29, 2015, Magistrate Judge Paul D. Stickney entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) recommending that Petitioner Rick Williams, Jr.’s (“Petitioner”) habeas petition under 28 U.S.C. § 2254 be construed as successive and transferred to the United States Court of Appeals for the Fifth Circuit. *See* 28 U.S.C. § 2244(b)(3). Petitioner filed objections to the Report in which he contends that he did not previously file a section 2254 habeas action or, if he did so, he did so mistakenly.

As correctly noted by the magistrate judge, Petitioner previously filed a section 2254 habeas action on April 29, 2011, in Case No. 3:11-CV-897-K, which was dismissed with prejudice as time-barred. In this prior action, Petitioner similarly sought relief from the judgment entered in Case No. F07-55623. Petitioner’s signatures on the habeas application forms in this case and the prior case are identical. The court, therefore, **overrules** Petitioner’s objections.

When a petition is deemed successive, the district court lacks subject matter jurisdiction unless a panel of the Fifth Circuit allows the successive petition to proceed. After reviewing the

pleadings, file, record in this case, objections, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **directs** the clerk of the court to **transfer** the habeas petition in this case to the Fifth Circuit for determination, and **dismisses** this action for lack of subject matter jurisdiction.\*

**It is so ordered** this 15th day of October, 2015.

  
Sam A. Lindsay  
United States District Judge

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\* An order transferring a successive application to the court of appeals is not a final order requiring a certificate of appealability. *See United States v. Fulton*, 780 F.3d 683, 688 (5th Cir. 2015).